

JAMES M. CHADWICK (Bar No. 157114)  
DIANA NG FUNG (Bar No. 185175)  
**DLA PIPER RUDNICK GRAY CARY US LLP**  
2000 University Avenue  
East Palo Alto, CA 94303-2248  
Tel: 650.833.2000  
Fax: 650.833.2001

**\*\*E-filed 7/13/05\*\***

Attorneys for Plaintiff  
HORTA, LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

HORTA, LLC,  
  
Plaintiff,  
  
v.  
  
CITY OF SAN JOSE,  
  
Defendant.

CASE NO. C 02-04086 JF (RS)

[Related Case No. C 00-20018 JF]

**STIPULATION AND [PROPOSED] ORDER  
CONTINUING AUGUST 5, 2005 HEARING  
ON HORTA, LLC'S MOTION TO  
RECONSIDER, REOPEN, AND AMEND  
JUDGMENT**

**[Civil Local Rule 6-2]**

Judge: Hon. Jeremy Fogel  
Complaint: August 23, 2002

**STIPULATION**

WHEREAS, on February 28, 2005, the Court entered judgment in this action;

WHEREAS, on March 14, 2005, plaintiff Horta, LLC ("Horta") filed its Motion to Reconsider, Reopen, and Amend Judgment (the "Motion to Amend") and set it for hearing on May 6, 2005;

WHEREAS, on May 6, 2005, the Court continued the hearing on the Motion to Amend to August 5, 2005 to permit Horta to conduct additional discovery relating to issues presented in the Motion to Amend;

WHEREAS, Horta has served discovery on non-party Federal Aviation Administration ("FAA"), in the form of document requests and requests for deposition testimony relating to issues presented in the Motion to Amend;

WHEREAS, the FAA has provided a partial production of documents responsive to Horta's document requests;

WHEREAS, the FAA has neither completed its production nor provided a date certain by which the production will be completed;

WHEREAS, Horta is still meeting and conferring with the FAA regarding Horta's document requests;

WHEREAS, the FAA has not yet provided Horta any of the requested deposition testimony;

WHEREAS, Horta has additional discovery to conduct once it obtains the FAA's complete responses to Horta's discovery requests and the deposition testimony of certain FAA representatives;

WHEREAS, Horta requires additional time to complete discovery pertaining to the issues raised in the Motion to Amend;

WHEREAS, Horta and the City of San Jose (the "City") agree that the August 5, 2005 hearing on the Motion to Amend should be continued for at least ninety (90) days;

1           THEREFORE, IT IS HEREBY STIPULATED by and between the parties to this action  
2           that the August 5, 2005 hearing on Horta's Motion to Amend shall be continued at least ninety  
3           (90) days.

4  
5           Dated: July 7, 2005

6           DLA PIPER RUDNICK GRAY CARY US LLP

7           By   
8           JAMES M. CHADWICK  
9           DIANA NG FUNG  
            Attorneys for Plaintiff HORTA, LLC

10          Dated: July \_\_, 2005

11          RICHARD DOYLE, City Attorney

12  
13          By \_\_\_\_\_  
14          NORA FRIMANN  
15          JOSEPH P. DICIUCCIO  
16          SANDRA LEE  
            Attorneys for Defendant CITY OF SAN JOSE

17                   **ORDER**

18          PURSUANT TO STIPULATION, IT IS SO ORDERED. The hearing on Horta's Motion  
19          to Reconsider, Reopen, and Amend Judgment is further continued from August 5, 2005 to  
20          November 4, 2005, at 9:00 a.m., in the courtroom of the Honorable Jeremy Fogel, located at  
21          280 South First Street, San Jose, California.

22          Dated: July 13, 2005

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24  
25                   /s/electronic signature authorized  
26                   \_\_\_\_\_  
27                   JEREMY FOGEL  
28                   UNITED STATES DISTRICT COURT JUDGE

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5 Dated: July \_\_, 2005

DLA PIPER RUDNICK GRAY CARY US LLP

7 By \_\_\_\_\_  
8 JAMES M. CHADWICK  
9 DIANA NG FUNG  
Attorneys for Plaintiff HORTA, LLC

10 Dated: July 7, 2005

11 RICHARD DOYLE, City Attorney

12  
13 By Nora Frimann  
14 NORA FRIMANN  
15 JOSEPH P. DICIUCCIO  
16 SANDRA LEE  
Attorneys for Defendant CITY OF SAN JOSE

17 **ORDER**

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23  
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25 \_\_\_\_\_  
26 JEREMY FOGEL  
27 UNITED STATES DISTRICT COURT JUDGE

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GRAY CARY US LLP

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STIPULATION AND [PROPOSED] ORDER RE HEARING DATE FOR HORTA, LLC'S  
MOTION TO AMEND JUDGMENT —CASE NO. C 02-04086 JF (RS)